

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DONNIE L. BASS,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting  
Commissioner of the Social Security  
Administration,

Defendant.

No. C13-2025RSL

ORDER DENYING PLAINTIFF'S  
REQUEST FOR ORDER DENYING  
DEFENDANT LEAVE TO  
SUBSTITUTE COUNSEL

This matter comes before the Court on plaintiff Donnie L. Bass's request for an order denying defendant leave to substitute counsel in this case. Dkt. # 62. Having considered plaintiff's request and the remainder of the record, the Court denies plaintiff's request for the reasons that follow.

On May 16, 2016, the Ninth Circuit held that plaintiff was entitled to a waiver of overpayment, relieving plaintiff of the obligation to repay \$8,845.19 in overpaid disability insurance benefits under Title II of the Social Security Act. Dkt. # 47. On August 12, 2016, defendant represented that "SSA will (1) waive any remaining repayment; and (2) pay back to Plaintiff and his child all money already collected from the overpayment." Dkt. # 51 at 2. On August 16, 2016, this Court adopted the Report and Recommendation of the Honorable James P. Donohue, Dkt. # 53, and dismissed this case with prejudice. Dkt. ## 54, 55.

On January 13, 2017, plaintiff notified the Court that he had received a letter from the

SSA, dated November 16, 2016, informing plaintiff that he owed the SSA \$17,331.40. Dkt. # 56. On February 2, 2017, the Court ordered defendant to show that the Social Security Administration had not violated the orders of this Court and the Ninth Circuit by asking plaintiff to repay \$17,331.40 in overpaid benefits. Dkt. # 57. Defendant responded, clarifying that the amount sought from plaintiff is currently \$8,486.21, which derives from an unadjudicated overpayment of \$10,687 but nonetheless accounts for the court-ordered overpayment waiver of \$8,845.19. Dkt. # 60. Defendant indicated that plaintiff had administratively requested reconsideration of the newly calculated \$8,486.21 overpayment. Dkt. # 60-1. Satisfied that the Social Security Administration had followed the court orders, the Court vacated its order to show cause. Dkt. # 61.

Also in February 2017, attorney Nancy A. Mishalanie appeared on behalf of defendant, and attorney Richard A. Morris withdrew as counsel for defendant. Dkt. ## 58, 59. On February 16, 2017, plaintiff asked the Court to deny defendant's change of counsel. Plaintiff further indicated that he had challenged the \$17,331.40 overpayment administratively. Dkt. # 62.

The Court denies plaintiff's request to prevent defendant from changing counsel. Defendant is free to change counsel, and such changes are not (as plaintiff suggests) evidence of an attempt to avoid court orders – which, after all, bind defendant no matter how many times defendant changes counsel.

As to plaintiff's continued concern that the SSA is ignoring court orders: the \$8,486.21 overpayment that the SSA now seeks from plaintiff appears to be unrelated to the overpayment addressed in the orders of this Court and of the Ninth Circuit. Accordingly, the Court lacks jurisdiction to address the \$8,486.21 overpayment until plaintiff has exhausted his administrative remedies and received a final decision regarding that overpayment from the Commissioner of Social Security. See 42 U.S.C. § 405(g). The parties have indicated that plaintiff is already pursuing administrative relief. Under the circumstances, there is nothing more that this Court can do.

1 For all the foregoing reasons, plaintiff's request (Dkt. # 62) is DENIED.  
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3 DATED this 27th day of February, 2017.  
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6 Robert S. Lasnik  
7 United States District Judge  
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